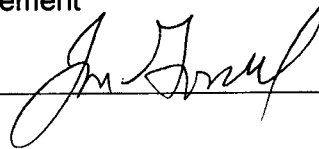


# REPORT

**DATE:** May 21, 2004  
**TO:** Administration Committee  
Regional Council  
**FROM:** Chief Counsel  
**SUBJECT:** Proposed New Master Fund Transfer Agreement



**RECOMMENDATION:** Authorize the Executive Director to take appropriate action regarding the new Proposed Master Fund Transfer Agreement.

## **SUMMARY:**

Late in calendar year 2003, Caltrans requested all MPO's, in the state, including SCAG to enter into a new proposed Master Fund Transfer Agreement ("MFTA"). The MFTA is the agreement by which Caltrans administers the Consolidated Planning Grant ("CPG") funds. The MFTA incorporates the Overall Work Program and serves as the basis governing Caltrans administrative oversight of SCAG. Caltrans indicated that the need to enter into a new MFTA arose from their desire to update, clarify and improve the MFTA, however, at least in the case of SCAG, the existing MFTA had not expired and to enter into a new MFTA in the middle of a fiscal year would have caused tremendous administrative burdens since under the proposed new MFTA, SCAG would have been required to amend its existing consulting agreements in order accommodate the new Caltrans requirements.

In addition to requiring SCAG to amend its consulting agreements in the middle of the fiscal year, under the proposed new MFTA SCAG would be subject to new requirements, including arbitration and would limit SCAG's ability to invoice Caltrans to only once a month, in contrast to the existing authority of twice a month. Because of these adverse consequences, SCAG, along with others in the state submitted comments to Caltrans objecting to the proposed MFTA. The new proposed MFTA had not been the subject of any substantial discussion between Caltrans and the affected parties.

Caltrans has been reviewing the comments submitted by SCAG and others. Despite SCAG's suggestion, Caltrans did not schedule a meeting or conference call to discuss SCAG's concerns. Instead, Caltrans provided a written response to our comments with a new version of the proposed MFTA which Caltrans has indicated will not be changed any further and must be executed no later than July 1. Additionally, Caltrans in its letter to SCAG has formally provided a notice to terminate the existing MFTA. Thus, if SCAG does not execute the new MFTA by the July 1 deadline established by Caltrans, there would be no agreement by which Caltrans would provide the CPG funding to SCAG.

# REPORT

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The revised MFTA addresses some of SCAG's concerns but some issues remain unresolved. Staff as of this writing is still analyzing and discussing with appropriate parties the impact of the new provisions of the revised MFTA. Staff will be prepared with a recommendation at your June 3 meeting.